GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Tribal Welfare Department – Appeal petition filed by Sri P.Rama Manohara Rao S/o Late Padi Venkanna Dora, Occ: Branch Manager, Films Division, Ministry of Information & Broadcasting, Govt. of India, Kendriya Sadan, Hyderabad, against the proceedings (M) Rc No.286/2008 C5, dt.23.10.2009 of the District Collector, Vizianagaram - under section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act 1993 (AP Act No. 16/1993) – Appeal Petition dismissed – Orders - Issued.

TRIBAL WELFARE (CV2) DEPARTMENT

G.O.Ms.No.2 Dated:06.01.2016
Read the following:

Ref:- 1. Proceedings of the District Collector, Vizianagaram, (M) Rc No.286/2008 C5, dt.23.10.2009.
2. Appeal Petition filed by Sri P.Rama Manohara Rao S/o Late Padi Venkanna Dora, Govt. of India, Kendriya Sadan, Hyderabad District, dt.07.11.2009.
3. Govt. Memo.No.11428/CV2/2009, S.W.(CV2) Department, dt.03.02.2010.
4. Order of the Hon'ble High Court of A.P., Hyderabad in W.P.No.26714 of 2009, dt:08.12.2009.
5. From the District Collector, Vizianagaram, Lr.No.(M), Rc.No. 286/08 C5, dt.08.03.2010.
6. Govt.Lr.No.11428/CV2/2009, S.W.(CV2) Department, dt.10.06.2010.
7. Govt. Memo.No.11428/CV2/2009, S.W.(CV2) Department, dt:23.06.2012, 25.07.2012, 18.02.2014 & 20.06.2015.
8. Govt. Memo.No.11428/CV2/2009, S.W.(CV2) Department, dt:16.10.2015.
9. Written arguments filed by the Counsel for the Appellant through post before the Government on dt:29.10.2015.

ORDER:

In the reference 1st read above the District Collector, Vizianagaram has issued orders canceling ST- Konda Dora Caste Certificate obtained from the then Tahsildar, Kurupam in 1987 by Sri P.Rama Manohara Rao S/o Late Padi Venkanna Dora, Vizianagaram District.

2. In the reference 2nd read above, Sri P.Rama Manohara Rao S/o Late Padi Venkanna Dora, Vizianagaram District has filed an Appeal Petition before the Government, against the said Proceedings of the District Collector, Vizianagaram. After examination, the Government have admitted the Appeal Petition and called for the parawise remarks and connected records from the District Collector, Vizianagaram in the reference 3rd read above.

3. Sri P.Rama Manohara Rao S/o Late Padi Venkanna Dora, Vizianagaram District has filed Writ Petition No. 26714 of 2009 against the said Proceedings of the District Collector, Vizianagaram, dated: 23.10.2009. In the reference 4th read above the Hon'ble High Court of Andhra Pradesh, while disposing the said WP, in its order dated 08.12.2009 has granted stay on the said proceedings of the District Collector, Viziangaram and directed the Government to dispose off the Appeal within a period of four (4) months from date of receipt of the order. But due to several administrative difficulties the matter could not be disposed before the said date. However, after giving notices from time to time to the Appellant through his Counsel the matter has been examined by the Appellate Authority as directed by Hon'ble High Court.

[P.T.O]

4. In the reference 5th read above, the District Collector, Vizianagaram has furnished the parawise remarks and connected records on the Appeal Petition filed by Sri P.Rama Manohara Rao S/o Late Padi Venkanna Dora, Vizianagaram District.

5. The said Appeal Petition has been posted for hearing on 25.06.2010, 09.07.2012, 06.08.2012, 24.02.2014, 20.06.2015 and finally on 31.10.2015 and the same has been informed to the Appellant and the Counsel for the Appellant and they were requested to attend for the hearing along with all Documentary Evidences/ Certificates in support of the Community claim, failing which, it will be construed that there is no claim what-so-ever in the matter and it will be decided based on the material available with the Government in the references 6th , 7th & 8th read above. The Appellant & Counsel for the Appellant have not attended and filed Written Arguments before the Government through post in support of his community claim in the reference 9th read above.

6. After examination of the records/ the copies of evidences/academic record/ grounds filed by the Appellant / the parawise remarks submitted by District Collector, Vizianagaram and proceedings of the District Collector, Vizianagaram dated 23.10.2009 and after hearing of the arguments and on perusal of the written arguments furnished by the Appellant the following points on the community claim of Sri Padi Rama Monohara Rao have been observed by the Appellate Authority:

a) The date of birth of Sri Padi Rama Monohara Rao, Appellant is **17.11.1959**, the place of birth is Kunavaram Village near Badrachalam.

b) The natural/original parents of Sri Padi Rama Monohara Rao are Sri Vinnakota Seetaramayya, (Police Constable) and Smt. Prabhavathi, who belongs to Kapu(O.C) community. He is having one Brother and two Sisters viz., Sri Mohanji, Smt. Laxmi Kumari and Smt. Uma Devi. The elder sister, Smt. Uma Devi and his father Sri Vinnakota Seetaramayya died in the year 1969, later his family shifted to Rajahmundry and his mother lead the family with the pension.

c) As per his Statement, he is adopted by Sri Padi Venkanna Dora and Smt. Padi Gangamma, who belong to ST-Konda Dora community and they are native of Venkatapuram, Kurupam Mandal, Vizianagaram District and the **adoption was taken place on 15.07.1983** i.e. when the Appellant is **23 years old**.

d) The Appellant never resided with the so called adopted parents, he resided with the original parents and his entire academic career is in Rajahmundry and Kakinada towns.

e) The alleged adopted parents i.e. Sri Padi Venkanna Dora died in the year 1995 and Smt. Gangamma in the year 2005, he did not attended the last rituals of both of them as he came to know the information somedays later of their death, but he went to the village after death and stayed for 3 or 4 days. After demise of the adopted parents he did not try for transfer the properties (D-Patta Land) of his adopted parents and he never tried to know the traditions and customs of Konda Dora community.

f) The Appellant Sri Padi Rama Manohara Rao has got employment as Transmission Executive in All India Radio, Vijayawada in the year 1990 under ST quota and in the year 1992, he married Dr. Jhansi Kumari belonging to Devanga community and she is working in ESI Dispensary, Chikkadapally, Hyderabad. As both the parents did not agree for the marriage, they married in Tirupathi on 26.04.1992. His natural mother Sri Vinnakota Prabhavathi died in the year 2008.

g) The Appellant's education right from the elementary to Post Graduation was in Rajahmundry and Kakinada towns in East Godavari District as belonging to Kapu-OC community with the surname of 'Vinnakota' and he was admitted in Andhra University for Post Graduation with the same surname.

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h) But basing on the adoption deed, which was registered on 15.07.1983, the Andhra University has issued the Post Graduation certificate with the 'Padi' Surname to the Appellant.

i) Further the Appellant in his grounds has quoted a judgment dt.4-12-1985 in O.S.No.1016/1984 wherein the learned Addl. District Munsiff Court, Rajahmundry has declared that the adoption of the Appellant by his adopted parents was lawful and directed the MRO to issue Caste Certificate. Based on the judgment, the MRO, Kurupam has issued Caste Certificate to the Appellant as ST Konda Dora.

j) Under section 6(3) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act 1993 (AP Act No.16/1993) the burden of proof lies on the Appellant only.

k) The Government is receiving many documents even at the time of argument and considering the same in order to ensure that justice is done to the parties more so to those who complain that reasonable opportunity is not given to them by the Appellate Authority. In the instant case he has not produced any documentary evidence in support of his ST community claim based on adoption.

l) The Judgment of Hon'ble Supreme Court as held in (1990) Supp SCC 220, followed/ relied on.

7. Further it is observed that in Circular Memo. No. 10956/CV1/97-2, S.W (CV) Department, dt.16.2.1998 instructions were issued by the Government for issuance of Caste Certificates. As per the said instructions, the adoption rules are as follows:

I. In deciding whether an adoption is valid, the certificate issuing Authority should satisfy himself that all the requirements of law have been complied with. He should also take into account the behavior of the child after adoption whether he physically lives with and is supported by his adoption parents and receives no financial help from his original parents. In case these conditions are not satisfied, the certificate should be refused.

II. The Caste Certificates in case of adoption children by Scheduled Caste and Scheduled Tribe parents, the powers are delegated to Joint Collectors. The Joint Collectors should exercise greater care in issuing of this type of certificate.

III. The Caste Certificates in the above cases shall be issued only for the children below 15 years of age. The adopted children should live for a minimum period of 5 years with the adopted parents for issue of Caste Certificates in the adoption cases.

Therefore the Appellant's said adoption is not valid. It is clear that as per Circular Memo.No.10956/CV1/97-2, S.W.(CV) Department, dt.16.2.1998, he cannot claim the benefits of ST, even though there is adoption.

8. As per the above observations stated supra in the instant case i.e. the community claim of Sri P.Rama Manohara Rao basing on adoption is not considerable as per the adoption rules prescribed by the Government and the Government is of the considered view that the adoption of the appellant is invalid. Further, the Judgment of Civil Court on the strength of which the caste certificate issued by the Thasildar Kurupam in favour of appellant is also perincurium and hence the said caste certificate was rightly cancelled by the District Collector, Vizianagaram and the Government is also opined that the appellant obtained caste certificate fraudulently and he has no iota of evidence to show that, he belongs to ST-Konda Dora community and he belongs to OC-Kapu community based on his natural parents. The District Collector, Vizianagaram has correctly held after examining the provisions of Hindu Adoption & Maintenance Act that the adoption of the Appellant is void ab initio and hence it is no adoption in the eye of law.

[Contd..]

9. The Government, in exercise of the powers conferred under Section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act 1993 (Act No16 of 1993), decided that the Appeal Petition filed by Sri P.Rama Manohara Rao S/o Late Padi Venkanna Dora, does not deserve any interference. Hence, Proceedings of the District Collector, Vizianagaram issued vide (M) Rc No. 286/2008 C5, dt. 23.10.2009, is hereby upheld and the Appeal Petition filed by Sri P.Rama Manohara Rao S/o Late Padi Venkanna Dora, is hereby dismissed and the Certificate issued by the then Tahsildar, Kurupam deemed to be cancelled.

10. Consequently, the District Collector, Vizianagaram shall take necessary action in the matter.

11. The records (containing (M) Rc No. 286/2008 C5, dt.23.10.2009, pages 01 to 532 cf, pages 1- 26 nf along with R.Dis. 275/89 C7 dt.2.5.95 containing NF 32 pages and CF 328 pages received from District Collector, Vizianagaram through 5th read above, are returned herewith in original to the District Collector, Vizianagaram and he is requested to acknowledge the receipt of the same, immediately.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

Dr. A. VIDYA SAGAR
PRINCIPAL SECRETARY TO GOVERNMENT(TW)

To
The District Collector, Vizianagaram.(w.e)
(with original records)

The Tahsildar, Kurupam, Vizianagaram District.

Sri P. Rama Manohara Rao,
H.No. 3-6-779/A/201.,
Lakshminarayana Aprts., Street No.14,
Himayathnagar, Hyderabad – 29.

Sri R. Ravi Kumar, Advocate,
H.No.10.3.307/1, Humayun Nagar,
Hyderabad.28.

The Dy. Director General (In-charge),
Films Division, Ministry of information & Broadcasting, GOI, Mumbai.

Copy to:
The Director, TCR& TI, A.P., Hyderabad.
The PS to M(SWE& TWE).
The PS to Prl. Secretary(TW).

// FORWARDED:: BY ORDER //

SECTION OFFICER